

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



W 7c

STAFF REPORT AND RECOMMENDATION**ON CONSISTENCY DETERMINATION**

Consistency Determination No.	CD-066-04
Staff:	MPD-SF
File Date:	08/19/2004
60th Day:	10/18/2004
75th Day:	11/2/2004
Extended to:	11/19/04
Commission Meeting:	11/17/2004

FEDERAL AGENCY: **U.S. Navy**

DEVELOPMENT
LOCATION:

Naval Amphibious Base (NAB), Coronado, San Diego
County (Exhibits 1-2)

DEVELOPMENT
DESCRIPTION:

Construct Waterfront Command and Control Facility and Navy
Lighterage System (Exhibit 3)

SUBSTANTIVE
FILE DOCUMENTS:

See p. 15

EXECUTIVE SUMMARY

The U.S. Navy (Navy) has submitted a consistency determination for its Waterfront Command and Control Facility and Navy Lighterage System at the northeast corner of the Naval Amphibious Base (NAB) in Coronado. The project would consist of demolishing an existing building, constructing a new operations command and control building, new pier construction at the Pier 16 complex, upgrading existing Piers 16 and 18, improving roads and storage areas, and repairing the existing quaywall.

The proposed activities, which include dredging and filling of estuarine coastal waters, are allowable uses under Section 30233(a)(1) and (4) of the Coastal Act as coastal dependent boating facilities. The Navy has incorporated avoidance and mitigation measures into the

project, including avoiding in-water construction during the least tern and snowy plover nesting seasons, avoiding noise impacts that could affect these species, using Best Management Practices to minimize water quality impacts, and surveying for and mitigating any eelgrass impacts.

The U.S. Fish and Wildlife Service has expressing concerns over the cumulative loss of foraging space for least terns and snowy plovers and requested that the Navy provide 1:1 mitigation for any additional bay areas being shaded by piers and other Navy structures. The Navy believes no mitigation is required for this impact. Absent eelgrass impacts, the Commission has not previously required mitigation for fill, shading, or loss of foraging area from small to mid-sized Navy (or other agency) piers, either from bay coverage or the fill represented by new pilings. While the Commission shares the U.S. Fish and Wildlife Service's concern, which is primarily expressed in terms of cumulative impacts, in light of the very small bay coverage of this project, the facts in this case do not warrant imposition of additional mitigation requirements. (The Commission wishes to put the Navy on notice that the concern remains valid and the issue may be revisited for future Navy pier proposals.) Thus, with the proposed measures being provided by the Navy, the project meets the "least damaging feasible alternative" and "mitigation" tests of 30233(a), as well as the marine resources, sensitive habitat, and water quality tests of Sections 30230, 30231, 30233, and 30240 of the Coastal Act.

Public access and recreation would not be affected as the shoreline adjacent to the project site is not publicly accessible due to military security needs. The project is located within a developed area of the NAB and would be visually compatible with surrounding development. The project is consistent with the visual resource and public access and recreation policies (Sections 30251 and 30210-30212) of the Coastal Act).

STAFF SUMMARY AND RECOMMENDATION

I. STAFF SUMMARY:

A. Project Description. The Navy proposes to construct an Improved Navy Lightering System (INLS) at the northeast corner of the Naval Amphibious Base (NAB)(Exhibits 1-2). The facility supports the Navy's Waterfront Command and Control Facility for Amphibious Construction Battalion One (ACB-1) and is needed to maintain the effectiveness of various military capabilities at the NAB. The project is intended to remedy limits to the Navy's effectiveness due to inadequate pier lift/launch facilities, temporary berthing space, storage space, command and control capabilities, and road access.

The proposed action involves an INLS lift/launch pier facility, construction of an operations command and control building, new pier construction at the Pier 16 complex, upgrades to existing Piers 16 and 18, road upgrades, increased storage yard space in conjunction with adequate maintenance and operational storage facilities, and quaywall repairs (Exhibit 3). The Navy elaborates:

Operations Command and Control Building Construction. A new two-story, 30,420 square foot (2,826 square meter [m^2]) building would be constructed in the area presently occupied by Building 306. Administration facilities would be on the second floor and vehicle maintenance on the first floor. Building components would include counter terrorism; heating, ventilation, air conditioning (HVAC); fire protection system; and utilities/site lighting. Building 306 would be demolished as part of the proposed action (see below).

Quaywall Upgrades. Structural repairs and fendering at the existing quaywall would be needed to fulfill safety and operational requirements for INLS. Repairs would be made to the existing, deteriorated concrete quaywall. The fendering system would be comprised of composite piles and would likely be constructed using a floating crane.

Laydown/Storage Area Upgrades. Two NAB Coronado areas comprising approximately 112,000 square feet (10,405 m^2) combined would be constructed for the proposed action. This includes an area near Pier 18 and the vicinity of the present transportation yard behind the proposed two-story operations building noted above. The laydown area near Pier 18 would be about 50,000 square feet (4,645 m^2) and constructed as a concrete pad on piles. This area is currently used for miscellaneous storage and likely would serve as storage for INLS modules. The area behind the operations building, at and in vicinity of present Building 306, would comprise the remaining 62,000 square feet (5,760 m^2) and consist of a concrete pad supported by concrete grade beams. The transportation yard area is currently used for storing existing Navy Lightering (NL) modules and would serve as storage of NL and INLS modules.

Road Upgrade. Transport of NL and INLS modules between the pier and storage or maintenance areas would require structural upgrades to Tulagi Road. Upgrades would involve removal of existing asphalt and incidental amounts of soil, followed by repaving with a thicker asphalt layer.

Pier 18 Upgrades. Existing Pier 18 would require upgrades, including fendering, cleats, and safety measures to make it operational for temporary berthing of lighterage modules. Fendering would involve the addition of composite piles. Installation would likely be conducted using a floating crane for pile driving. Pier appurtenances including mooring hardware and a safety handrail would also be installed.

Pier 16 Upgrades. The existing, east finger pier segment of the Pier 16 complex requires expansion in width and length and improvements in structural stability to be used as a lift/launch facility. Upgrades would include a new marine lift. Old fender piles would be removed and replaced with composite fender piles. The new piles would likely be installed using a floating crane for pile driving. Concrete

comprising the existing deck would be demolished and replaced with thicker, rebar re-enforced concrete. No utilities would be required.

New Lift/Launch Finger Pier Construction. A new pier would be constructed at the Pier 16 complex. Pier construction would include installation of concrete structural piles and composite fender piles using a floating crane for pile driving. The new deck would be constructed of rebar reinforced concrete. Some shore-side excavation using standard construction equipment, including excavators, would be required for the pier abutment/base. No utilities would be required on this new pier.

Building 306 Demolition. Existing Building 306 (9,600 square feet/892 m²) would be demolished as part of the space required for the new Operations Command and Control Building. Demolition would be conducted using standard equipment.

B. Status of Local Coastal Program. The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the LCP has been certified by the Commission and incorporated into the California Coastal Management Program (CCMP), it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. The City of Coronado's LCP has been incorporated into the CCMP.

C. Federal Agency's Consistency Determination. The Navy has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

II. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following motion:

MOTION: **I move that the Commission concur with consistency determination CD-66-04 that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).**

STAFF RECOMMENDATION:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

RESOLUTION TO CONCUR WITH CONSISTENCY DETERMINATION:

The Commission hereby **concurs** with consistency determination CD-066-04 by the U.S. Navy on the grounds that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the CCMP.

III. FINDINGS AND DECLARATIONS:

The Commission finds and declares as follows:

A. Marine Resources/Environmentally Sensitive Habitat. The Coastal Act provides:

Section 30230. Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities. ...

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities

Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas ... shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat ... areas.

The proposed project includes several in-water components, including pilings for new and expanded piers, and expansion of the existing quaywall, which must pass the allowable use, alternatives, and mitigation tests of Section 30233(a) of the Coastal Act. The Commission has historically found Navy boating facilities (including piers) in open coastal waters and estuaries to be allowable uses as coastal dependent boating facilities (and for quaywall modifications, allowable uses as either coastal dependent boating or maintaining depths in existing navigational channels). Accordingly, the Commission finds that the project components involving fill in San Diego Bay constitute allowable uses under Sections 30233(a)(1), (2), and (4) of the Coastal Act.

Looking at the alternatives test, given the coastal-dependent nature of the facility, which needs to be located along the shoreline of the NAB in order to function, combined with the fact that the project involves fairly minor expansions of existing uses, it is logical to assume that there is no less environmentally damaging location. Therefore, with the avoidance and mitigation measures discussed below incorporated into the project, the Commission agrees with the Navy that the project represents the least environmentally damaging feasible alternative and therefore meets the second test of Section 30233(a).

Concerning impacts and mitigation measures, the Navy states that the project would not be likely to adversely affect sensitive marine resources typically of concern to the Commission in San Diego Bay, including eelgrass and seabird (pelican, least tern, and snowy plover) nesting and foraging habitat. The Navy states:

The marine habitat in the vicinity of NAB Coronado and the project area is comprised of primarily shallow subtidal habitat with dense eelgrass beds. Mud and sand bottom habitat also occur in the vicinity of the project area in shallow to deep water. Eelgrass habitat provides important nursery areas for fish and invertebrates that produces forage for the California least tern and numerous other bird species. Eelgrass densities in the vicinity of NAB Coronado typically range between 50 and 75 percent cover (primarily shallow adjacent areas). South and west of the project area, shoreline habitat occurs at North and South Delta Beaches, Fiddler's Cove, and at the Silver Strand State Beach. South Delta Beach is an important nesting site for the California least tern and western snowy plover. These areas would not be affected by the proposed action.

The Navy estimates the project would involve a small amount of fill of bay waters, approximately 0.009 acres (385 sq. ft.), and that any impacts would be temporary and minor. Shading impacts from the new pier and pier expansions would similarly be minor. The Navy states:

Project components would cause the minor loss of unvegetated and vegetated soft bottom habitat including quaywall upgrades (175 feet²), Pier 16 upgrades (approximately 140 feet²), Pier 18 upgrades (approximately 70 feet²), and Lift/Launch Finger Pier (approximately 140 feet²). Quaywall repairs would require approximately

15 days of in-water work and 20 days of onshore work (quaywall upgrades); Pier 18 upgrades would require approximately 10 days for the addition of composite fenders; Pier 16 upgrades would require approximately 60-70 days of inwater work (duration, not continuous work); and new lift/launch finger pier construction would require 60 to 80 days of in-water work over a 3 to 4 month period. Construction activities may temporarily displace marine biota (invertebrates, fishes, and resting or foraging water birds) or cause them to avoid the local areas of construction. However, due to the short duration of activities and the availability of substantial similar habitats in surrounding waters and shorelines, such displacement would not significantly affect marine species. In-water construction would not occur during the California least tern or western snowy plover nesting season.

The small amount of loss of habitat would not adversely affect the productivity of marine resources or their utilization. Marine birds are expected to continue to heavily use the area and would rest/perch on new in-water structures. Pre-, post-, and one-year following construction eelgrass surveys will be conducted as part of project activities. If the surveys indicate that any eelgrass has been impacted by construction activities, banked credits from the DoN [Department of the Navy] Eelgrass Mitigation Bank (Draft) South and South Central San Diego Bay sites will be used to offset those impacts, resulting in no net loss of eelgrass. Further, the relatively small area of additional surface area cover from the new pier and pier expansion would not cause significant impacts to marine organisms including birds and fishes.

The U.S. Fish and Wildlife Service has disagreed with the Navy's determination of minimal impact. The Fish and Wildlife Service has written several letters over the past year (including one for this project)(Exhibit 5) expressing concerns over the cumulative loss of foraging space for least terns and snowy plovers and requesting 1:1 mitigation for any new bay areas being shaded/covered by piers and other Navy structures. For this project, the Fish and Wildlife Service states:

The EA indicates that there will be a 0.4 acre (1,732 square feet) decrease in foraging surface area for birds, including the federally listed California least tern and brown pelican, by increasing man-made structures covering San Diego Bay. California least terns and brown pelicans must be able to see their prey to successfully capture it. The Service is concerned that no mitigation is proposed to offset the increased coverage of the bay's surface and impacts to these sight-foraging birds. Due to the cumulative loss of surface area in San Diego Bay, the Service has consistently recommended in recent years that impacts to bay surface area be mitigated at a minimum 1:1 ratio. Mitigation to offset loss of foraging area for marine birds may include removal of existing structures that cover San Diego Bay, creation of open water through removal of fill within San Diego Bay, or shallowing-up deep water portions of San Diego Bay to create shallow subtidal habitat.

The California Department of Fish and Game echoes the Fish and Wildlife Service's concern, stating:

Although the coverage of bay surface area habitat associated with this project may seem small, it is of concern to the Department because of cumulative impacts from these kinds of activities. The San Diego Bay Integrated Natural Resources Management Plan (2000) cites 131 acres of San Diego bay habitat covered by docks, piers and wharves (without ships and boats). As cited in the final Environment Impact Statement for the Navy's Pier 10/11 Replacement Pier and Dredging Project (2001), Navy projects have reduced bay coverage in San Diego by approximately 10 acres. ...

We believe the project proponent should address the impacts of additional bay surface area coverage and investigate opportunities to replace the lost foraging habitat. For example, the project proponent could remove obsolete docks/structures elsewhere in the area to expose additional bay habitat. ... Additional eelgrass could be planted to offset impacts as well.

The Navy is willing to offset any eelgrass impacts, and schedule the project to avoid the least tern nesting season, but the Navy does not believe the "loss of foraging area" impacts warrant mitigation. The Navy states:

Tern Foraging and Surface Area Loss Fact Sheet

The Fish and Wildlife Service (FWS) has requested mitigation for bay surface area coverage to offset the loss of available forage area for the federally endangered California least tern. Although the FWS has not requested formal consultation under Section seven of the Endangered Species Act (ESA), they are citing "cumulative impacts" as their justification for requesting mitigation. By not requesting formal consultation the FWS is essentially saying they don't believe there is a "may effect" under ESA but also state they have a long standing tradition of "concern" over the continued loss of forage habitat in the bay. Other than personal opinion, the FWS has failed to offer any data supporting concerns that the surface area loss is adversely affects terns. Navy data below illustrates that in the past 10 years tern nests and fledglings have increased during a period of extensive construction activities in the bay:

*1. San Diego Bay has a **surface area of 12,440 acres** comprised of the following habitats*

- a. Deep Subtidal (>20 ft) – 4,443 acres*
- b. Moderately Deep Subtidal (-12 to -20 ft) – 2,219*
- c. Shallow Subtidal (-2.2 to -12) – 3,213 acres*
- d. Vegetated Shallow /Moderately Deep Subtidal – 1,586 acres*
- e. Intertidal (+2 to -2.2) – 979 acres*

2. There has been a net **increase of 5.49 acres** of surface area coverage in the bay since 1994 (-10.16 acres Navy and +4.67 acres Port). The increase constitutes a **.044% loss** of all the surface area of the bay.

3. Tern foraging studies from Baird 1997 and Merkel 2003 have shown that terns **forage throughout the bay and ocean** and are not geographically dependant on any specific bathymetry or habitat. The studies found that terns are opportunistic feeders and will forage wherever the schooling fish such as top smelt and anchovies are found.

4. The 5-year fisheries study by Allen 2000 concluded that the primary schooling forage species (topsmelt, anchovy and sardine) **occur in all the ecoregions** (north, north central, south central and south) of the bay and in all of the bathymetric regimes (deep, deep subtidal, shallow subtidal, vegetated deep and shallow subtidal and intertidal) during the spring/summer forage season. This is consistent with the findings from Baird and Merkel.

5. Navy tern monitoring data from 1993 to 2003 has shown a total **increase of 695% of nests** Navy-wide in San Diego Bay (331% at NASNI MAT, 224% at NAB Delta North, 2700% at NAB Delta South and 62,300% at NAB Ocean). The data also shows an average **increase 75% of fledglings** in San Diego Bay.

*Based on the data above, there is no evidence that the existing **.044% increase** of surface coverage has had any effect (adverse or otherwise) on tern breeding success in San Diego Bay. Therefore there is no “may effect” or “cumulative” affect on terns with regards this project or any future Navy project in San Diego Bay and no mitigation should be offered. [Above emphases in original]*

The Navy also states:

Environmentally sensitive habitat areas in and adjacent to the project area include the shallow waters that contain eelgrass beds and bordering intertidal mud- and sand flats. California least terns and other marine birds use adjacent waters for foraging and some of these species may use man-made structures for resting. No additional nesting or other sensitive habitats occur within the proposed project area. Construction activities would have very localized, temporary effects on fish and wildlife in the vicinity, possibly resulting in the avoidance of the area and/or displacement of some species to nearby areas with similar habitats. These effects are considered less than significant, as similar shallow water and foraging and resting habitat is present all along the bayside of the Silver Strand. Additionally, in-water construction activities would not occur during least tern nesting season. The upgrade and repair construction associated with the proposed action would not adversely affect the productivity of marine resources or their utilization. Marine birds are expected to continue to heavily use the area and would rest/perch on new in-water structures, which would also provide substrate that would attract invertebrates and fishes. Additionally, pre-, post-,

and one-year following construction eelgrass surveys will be conducted as part of project activities. If the surveys indicate that any eelgrass has been impacted by construction activities, banked credits from the DoN Eelgrass Mitigation Bank (Draft) South and South Central San Diego Bay sites will be used to offset those impacts, resulting in no net loss of eelgrass.

Information contained in the Integrated Natural Resources Management Plan (INRMP)¹ (Naval Base Coronado, May 2002) could be viewed to support either the Navy's position or the Fish and Wildlife Service's position.

One of the citations referred to by the Fish and Wildlife Service is the San Diego Bay INRMP (2000), which is summarized in the Naval Base Coronado INRMP (May 2002). These plans document the substantial progress the Navy has made in consultation with the Fish and Wildlife Service in increasing least tern and snowy plover populations and nesting success. However they also indicate that "Dock and pier shading may also influence the ability of terns to forage." For an overview of management concerns for least terns, the Naval Base Coronado INRMP states:

- ***Management Concerns- California Least Tern***

The San Diego Bay INRMP (USDoN SWDIV 2000) summarizes several specific management concerns for the California least tern in the Bay area, many of which remain relevant to the NBC coastal properties under this INRMP:

- *The California least tern is a species so critically imperiled that populations are not self-sustaining without ongoing intensive management.*
- *The loss of good roosting platforms may have impacted tern foraging. The proximity of roosting to foraging areas is important for saving the California least tern's energy between feeding bouts, thus allowing them to bring more energy to chicks (Baird 1997). Dock and pier shading may also influence the ability of terns to forage. [Emphasis added]*
- *There is a strong relationship between endangered species success and predator management. While there are differences among sites, predator management has at times been inconsistent from site to site, with the variation primarily related to different contracting agencies, their mandates and responsibilities, and individual biologist*

¹ An INRMP is a five-year, ecosystem-based plan that the Navy (or in the case of the San Diego Bay INRMP, the Navy and the Port of San Diego) developed in cooperation with and with the concurrence of the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), and the National Marine Fisheries Service (NMFS, or NOAA Fisheries). The document reflects the mutual agreement of all parties.

experience or opinion. The lack of consistency and predictability of labor needed for predator management from year to year has made it difficult to keep experienced workers on hand for maximum effectiveness at tackling a challenging task.

■ *Intensive management of the California least tern has proven effective in increasing its population and in securing terrestrial habitats around the Bay where other species also benefit, including western snowy plovers and horned larks. However, land managers practicing successful predator management have supported progressively more of the populations of sensitive species and are then held to more restrictive use due to the success of their programs. Good management should not be punitive.* [Emphasis added]

As discussed in the Commission's most recent Navy pier improvement consistency review (CD-52-04 - Navy, Fiddler's Cove Marina Improvements), the INRMP also notes that the Navy has undertaken substantial effort to improve least tern and snowy plover habitat in recent years (see CCC staff report, CD-52-04, pp. 11-13, which is hereby incorporated by reference into this report).

Finally, the San Diego Bay INRMP acknowledges the Navy's assertion that piers can provide foraging benefits for least terns, but it also points out the difficulty in quantifying this benefit. This INRMP states:

Some structures have positive value because they are often used as roosting sites for waterbirds to conserve energy and avoid harsh weather conditions. Floating docks in shallow water are used by roosting and foraging waterbirds (e.g. brown pelicans, cormorants, and gulls) because the sites are relatively undisturbed by human activity (US Department of the Navy 1995). Structures are also substrate for a diverse community of marine organisms that appear to attract schooling fish, foraging terns, and other waterbirds (Ogden 1994; US Department of the Navy 1994).

All of the man-made structures can support a wealth of invertebrates and seaweeds, including many of the exotic species that have invaded the Bay. However, little scientific information is apparently available on the distributions of these various types of hard substrata and the biotic communities that they support within the Bay (S. Murray, California State University-Fullerton, pers. comm.).

In reporting on a Navy study of the shading/foraging relationship, the San Diego Bay INRMP states:

A preliminary study funded by the Navy on wharf shading impacts is in progress (Merkel and Associates 1999). The purpose of the study is to characterize biological communities along an environmental gradient of shading under pile-supported structures, to determine if shading might affect the forage base for fish. The results provided evidence that shaded areas beneath structures continued to support an infaunal community. A numerically greater number of organisms was found under the piers than outside them. The pile community was not as rich as that along pier edges;

however a developed pile community existed in all areas. Fish communities were poorly represented in the study, probably due to the sampling season, so no conclusions were reached with respect to differences in their abundance along the shade gradient.

Historically, absent eelgrass impacts, the Commission has not previously required mitigation for shading or loss of foraging area from small to mid-sized Navy (or other agency) piers, either from additional bay coverage or shading impacts, or from the fill represented by new pilings. The proposed project represents only a small (0.04 acres) increase in bay coverage at the NAB. Looking cumulatively, with a total surface area of San Diego Bay of 12,440 acres, in the past 10 years the Navy has covered approximately 10 acres (approximately 0.08% [$>1/12$ of 1%] of the Bay). As it determined last month in reviewing Navy consistency determination CD-52-04, given the information available at this time, the Commission finds no data-driven biological basis for determining that this impact is significant. Hypothetically, if the coverage trend were to continue, at some point the impact would be significant (e.g., if the Navy continued at the rate of the last 10 years for the next century, it would cover 100 acres, or about 0.8% of the Bay).

Given the lack of convincing data at this time to support mitigating the aerial impact, but acknowledging that the cumulative losses are a reasonable concern, the Commission finds that the proposed project is not the appropriate vehicle to trigger a shift in policy. Therefore, while the Commission shares the U.S. Fish and Wildlife Service's (and Department of Fish and Game's) concern, which is primarily expressed in terms of cumulative impacts, in light of the fact that this project involves very small bay coverage (0.04 acres), the Commission believes the facts in this case do not warrant imposition of additional mitigation requirements. At the same time the Commission wishes to put the Navy on notice that the concern remains valid and that this issue may be revisited for future Navy pier proposals.

In conclusion, because the Navy will mitigate any eelgrass impacts, the project will avoid in-water construction during the least tern and snowy plover nesting seasons, avoid noise impacts that could affect these species, minimize water quality impacts (see following section), the Commission finds that the Navy has provided adequate mitigation for any adverse marine resources and environmentally sensitive habitat. The Commission concludes that the project is consistent with the requirements of Sections 30230, 30233, and 30240 of the Coastal Act.

B. Water Quality. Section 30231 of the Coastal Act provides:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 provides

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

To address water quality concerns, the Navy states:

The proposed action would not require dredging or disposal of dredged sediments or generate any wastes proposed for discharge to the bay. Some minor disturbances to water and sediment quality within San Diego Bay, including accidental releases of debris or spills of construction materials and/or fuels, may result from upgrading the existing quaywall and piers and construction of a new finger pier. Potential impacts would be minimized by implementing standard construction best management practices (BMPs), and all construction would occur under a general stormwater construction permit. In addition, following the construction phase, activities and temporary storage of materials for the proposed action will be governed by the industrial SWPPP (under NPDES permit No. CA0109185).

DoN has a comprehensive spill prevention and response program. As part of this program the following oil and hazardous substances prevention and response plans have been developed: Spill Prevention, Control, and Countermeasures Plan; Hazardous Materials Response Plans; and Facility Response Plan. The project area, as part of NAB Coronado, would be included in these plans.

Minor grading and construction work would result in the potential for accidental spills of solvents, fuels, or other construction materials. In addition, the proposed project area would be used for military industrial purposes and may include the transportation of small amounts of solvents, fuels, and other petroleum products as part of the transportation of INLS modules. However, with implementation of standard BMPs and compliance with the above-mentioned plans, these impacts are expected to be temporary, localized and less than significant.

At the Commission staff's request, the Navy has also committed to providing the BMPs and Storm Water Pollution Prevention Plan to the Commission staff for its review, prior to commencement of construction. With the Navy's commitments to implement and allow Commission staff review of the BMPs and spill prevention plans to minimize water quality impacts, the Commission finds that the project's water quality impacts will be minimized and that the project is consistent with the water quality and oil spill prevention policies (Sections 30231 and 30232) of the Coastal Act.

C. Public Access. Section 30210 of the Coastal Act provides:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with safety needs and the need to protect public rights, rights of private property public owners, and natural resource areas from overuse.

Section 30212 provides in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources....

Addressing public access and recreation issues the Navy states:

The project area is owned and operated by the DoN [Dept. of the Navy]. Access to NAB Coronado Main Base, including the proposed project area, is controlled by DoN and is restricted to military personnel, DoD [Dept. of Defense] civilians, and authorized contractors. Adjacent and nearby land uses include waterfront military operations and parking lots. Recreational access occurs south of the project area at Fiddler's Cove Marina (for use by military and other authorized personnel) as well as at Silver Strand State Beach, which features extensive beaches on both the Pacific Ocean and San Diego Bay. The proposed action would be compatible with existing adjacent land uses, and no impacts would occur to public access or recreational opportunities.

The proposed action involves the repair and replacement of existing deteriorating facilities within an existing developed/disturbed area, and no public access is available or permitted. Access to NAB Coronado Main Base, including the proposed project area, is controlled by DoN and is restricted to military personnel, DoD civilians, and authorized contractors.

As it has repeatedly found in reviewing relatively minor Navy expansion/improvement projects at the NAB, the Commission finds that project will not affect public access, because the NAB shoreline (and waters immediately offshore in San Diego Bay) are not now publicly accessible due to military security needs, and due to the lack of burdens on public access generated by the project, as well as the Navy's military security needs at the NAB. The Commission therefore finds the project consistent with the public access and recreation policies (Sections 30210-30212) of the Coastal Act.

D. Visual Resources. Section 30251 of the Coastal Act provides in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The Navy states:

The project area is located in a developed section of NAB Coronado, and used primarily for military industrial purposes and administration. The proposed action involves the repair and replacement of existing deteriorating facilities within an existing developed/disturbed area such that no scenic vistas would be obstructed by the improvements.

The NAB is heavily developed, and the project will not appreciably modify views of the base from public areas (including from the waters of San Diego Bay). The Commission agrees with the Navy's conclusion that the project will not adversely affect public views, will be similar to the existing uses at the site, and will be visually compatible with the character of the surrounding area. The Commission therefore finds the project consistent with the view protection policy (Section 30251) of the Coastal Act.

IV. SUBSTANTIVE FILE DOCUMENTS:

1. CD-15-81 (U.S. Navy, NAB Master Plan)
2. CD-92-92 (U.S. Navy, Seawall, Fiddler's Cove)
3. CD-88-96 (U.S. Navy, Waterfront Operations Facility)
4. CD-31-01 (U.S. Navy, Replacement Pier for Piers 10 and 11, Naval Station San Diego)
5. CD-52-04 (U.S. Navy, Fiddler's Cove Marina Improvements)
6. San Diego Bay Integrated Natural Resources Management Plan (2000)
7. Naval Base Coronado Integrated Natural Resources Management Plan (May 2002)